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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/763,217

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Torsten Wahler

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EXAMINER

LIANG, LEONARD S

ART UNIT

PAPER NUMBER

2853

MAIL DATE

DELIVERY MODE

10/28/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/763,217	Applicant(s) WAHLER, TORSTEN	
	Examiner LEONARD S. LIANG	Art Unit 2853	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>07/02/08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The examiner previously rejected claim 1, but in light of the applicant's arguments and upon further consideration, the examiner finds claim 1 to be indefinite and requires further clarification which particularly points out and distinctly claims the subject matter which applicant regards as the invention.

Specifically, the specification discloses two types of tachograph charts, a top tachograph chart (figures 3 and 6, reference 23) and a next tachograph chart (figures 3 and 6, reference 24). Claim 1 claims "a spacer element comprising a ramp and arranged such that the tachograph charts which are separated off from the bundle of tachograph charts and rest against the stop are lifted off..." Since the applicant claims tachograph charts in the plural, the examiner construes that both the top and next tachograph charts are being referred to. However, the rest of claim 1 only refers to a tachograph chart in the singular and it is not clear whether it is the top or next tachograph chart that is being referred to. In some instances, it appears that both the top and next tachograph charts are being referred to, but their orientation in relation to each other is not made clear. For example, claim 1 further claims, "the spacer element positioned with respect to

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the stop such that a tachograph chart which is conveyed against the stop at the end of a registration cycle is lifted up in such a way that the stop edge of the tachograph chart comes into contact with the tachograph chart." It is impossible for the stop edge of the tachograph chart to come into contact with itself.

Therefore, the examiner presumes that the applicant is trying to refer to some relationship between the top tachograph chart and the next tachograph chart.

But the language in the claim is currently indefinite. The examiner requests that the applicant specify which tachograph chart is being referred to at each mention of a "tachograph chart" in the claims. If only one tachograph chart is being referred to, the claims must be rewritten in a way such that there is no inconsistency or impossibility claimed.

The claims will be considered allowable if rewritten to overcome the rejection under 35 USC 112.

Response to Arguments

Applicant's arguments, see pages 4-5 of the argument, filed 07/02/08, with respect to claims 1-3 have been fully considered and are persuasive. The non-final rejection of 04/07/08 has been withdrawn.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEONARD S. LIANG whose telephone

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number is (571)272-2148. The examiner can normally be reached on 8:30-5 Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Meier can be reached on (571) 272-2149. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/L. S. L./
Examiner, Art Unit 2853
10/22/08

/Stephen D Meier/
Supervisory Patent Examiner, Art Unit 2853